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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,982	10/16/2003	Ingo Baumann	16274.151b.	8127
22913	7590	08/23/2007	EXAMINER	
WORKMAN NYDEGGER 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			RAHLL, JERRY T	
			ART UNIT	PAPER NUMBER
			2874	
			MAIL DATE	DELIVERY MODE
			08/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/686,982

Applicant(s)

BAUMANN ET AL.

Examiner

Jerry T. Rahl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-20 and 22-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10, 11, 13, 14, 16, 18-20, 28, 29, 32, 34 and 36 is/are rejected.
- 7) ☒ Claim(s) 4-9, 12, 15, 17, 22-27, 30, 31, 33 and 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 03 October 2005 have been fully considered but they are not persuasive.
2. Applicant argues that Dallas et al. does not describe an auxiliary substrate having the adjustment device on or within the auxiliary substrate. However, as discussed in the Office Action mailed 28 June 2005 and reproduced below, Dallas et al. describes an auxiliary substrate (403) having the adjustment device (416) located thereon. Applicant has not given the term "auxiliary substrate" any special meaning and, therefore, the term must be given its broadest reasonable interpretation. An auxiliary substrate may be considered any substrate in addition to a first substrate. In Dallas et al., the first substrate is the waveguide substrate (419). Therefore, the second substrate (403) meets the definition of an "auxiliary substrate".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1–3, 10-11, 14, 18-21, 28-29, 32 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application 2003/0142926 to Dallas et al.
5. Dallas et al. describes an optical system with an optical component (see Paragraph [0034]) in communication with a waveguide (417) and an adjustment device (416) interposed

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between the optical component and the waveguide, where the adjustment device comprises an auxiliary waveguide (418) with at least one end (420) movable to facilitate (see Paragraph [0035]) a predetermined optical coupling between the optical component and the waveguide (see Figure 4 and Paragraphs [0031]-[0039]).

6. Further, Dallas et al describes the waveguide residing on a carrier substrate (419) comprising a planar lightwave circuit.

7. Further, Dallas et al describes the adjustment device formed on an auxiliary substrate (403).

8. Further, Dallas et al describes the moveable end of the auxiliary waveguide operable to be deflected and adjusted by a thermal force (see Paragraph [0031]).

9. While Dallas et al does not specifically describe the auxiliary waveguide operable to move in a direction perpendicular to a longitudinal direction of the auxiliary waveguide, once the solder (416) of Dallas et al. has melted, the auxiliary waveguide would inherently be operable to move in a direction perpendicular to a longitudinal direction of the auxiliary waveguide due to the low resistance of the melted solder to such movement.

10. Further, Dallas et al describes the optical component as an optical laser (see Paragraph [0034]).

11. Further, Dallas et al describes a holding component (solder 416, once cooled) to fix the movable end of the auxiliary waveguide upon establishing the optical coupling.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 16 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dallas et al. as applied to claims 1 and 19, above.

14. Dallas et al. does not specifically describe the carrier substrate comprising a glass, silicon or SOI substrate or the waveguide comprising a glass or polymer waveguide. However, since Dallas et al. is mute to the materials of the substrate and waveguide, it would have been obvious to one of ordinary skill in the art to use any material commonly used for substrates or waveguides in optical systems for easy manufacturing. The examiner takes official notice that glass and silicon are the most commonly used material for substrates in optical systems. The examiner takes official notice that glass and polymer are the most commonly used material for waveguides in optical systems. Therefore, it would have been obvious to one of ordinary skill in the art to use the above described materials for the substrate and waveguide to allow for easy manufacture of the optical system.

Allowable Subject Matter

15. Claims 4-9, 12-13, 15, 17, 22-27, 30-31, 33 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. Claims 4-8 and 22-26 describe the optical component mounted on or in the auxiliary substrate.

17. Claims 9 and 27 describe the adjustment device and carrier device mounted on a separate substrate.

18. Claims 12 and 30 describe the auxiliary waveguide moved to achieve attenuation between the component and waveguide.
19. Claim 13 and 31 describe a space between the adjustment device and component filled with a composition.
20. Claims 15 and 33 describe interposing a second adjustment device between the component and waveguide.
21. Claims 17 and 35 describe adapting a mode field of the waveguide or component with a mode field of the auxiliary waveguide.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

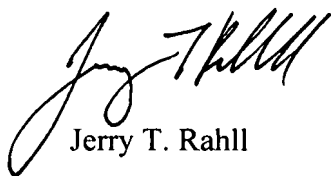
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry T. Rahll whose telephone number is (571) 272-2356. The examiner can normally be reached on M-F (9:00-5:00).


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jerry T. Rahll



MICHELLE CONNELLY-CUSHWA
PRIMARY EXAMINER
8/20/07